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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

89296.0025

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Signature ZTyped or printed name Rose Hickman Reg. No. 54,167

Application Number

10/711,218

Filed

09-02-2004

First Named Inventor

Frank Sterns

Art Unit

2615

Examiner

Huyen D. Le

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor.Z
Signature assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)Rose A. Hickman

Typed or printed name

 attorney or agent of record.
Registration number 54,167(310) 785 4796

Telephone number

 attorney or agent acting under 37 CFR 1.34.May 22, 2007

Date

Registration number if acting under 37 CFR 1.34

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
 Submit multiple forms if more than one signature is required, see below*.

*Total of 1 forms are submitted.

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PATENT
089296-0025

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Frank Sterns

Serial No: 10/711,218

Filed: 09/02/2004

For: LOUDSPEAKER WITH INTEGRATED
WOOFER FRAME AND BAFFLE
COMPONENT

REASONS FOR PRE-APPEAL BRIEF
REQUEST FOR REVIEW ATTACHED TO
FORM PTO/SB/33 AND ACCOMPANYING
NOTICE OF APPEAL

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As stated on the attached Form PTO/SB/33, Applicant requests a pre-appeal brief review of the final rejection in the above-identified application. This request is being filed with a Notice of Appeal. The review is requested for the following reasons:

1. The Examiner Has Failed To Make Out A Prima Facie Case of Anticipation.

The Examiner has rejected claims 1, 7, 17, and 19 as anticipated by Ryan (US 6,766,027). All of these claims require that the woofer frame is integral with the baffle. Integrating the woofer frame and the baffle results in many advantages over prior art speaker systems, generally favoring modular and freely movable components. These are discussed in detail on p. 5 of Applicant's March 29th response and the portions of the Specification referenced therein.

The speaker system of Ryan has a conventional woofer that is separate from, and is simply mounted on or secured to, the speaker frame. *See* Applicant's response of October 3, 2006 for a lengthy discussion. The Examiner agrees. *See*, p.4

Art Unit: 2615

Examiner: Huyen D. Le

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Name

 5/22/2007
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of Office action of January 29, 2007 (“the woofer frame (15) of Ryan is *attached to* the baffle (17, 19)”).

Because the Examiner has failed to show disclosure in Ryan of every element in Applicant’s independent claims 1 and 17, Applicant submits that she has failed to make out a *prima facie* case of anticipation. Claims 7 and 19 depend from claims 1 and 17 and are also patentable for at least this reason.

2. The Examiner’s Contention That Separate Pieces Connected Together Are Necessarily Integral Is Clearly False.

The Examiner does not contend that making the baffle and woofer frame of Ryan integral would be obvious. Rather, the Examiner’s one argument for anticipation is that separate elements connected together are necessarily “integral.” See, p. 4 of Office action of January 29, 2007 and Applicant’s Interview Summary, filed on February 12, 2007. This contention is contrary to established case law and the plain meaning of the dictionary definition. Applicant discussed the relevant case law and definition at length on pages 3 and 4 of the March 29th Response. This argument, therefore, fails to make out the Examiner’s *prima facie* case of anticipation.

3. The Examiner Has Failed To Make Out A Prima Facie Case of Obviousness.

Claims 2-6, 8-16, 18, and 20-22 are currently rejected as obvious over Ryan. However, Ryan also fails to teach or suggest all of the claimed limitations. As discussed in detail on pages 4-6 of the March 29th Response, Ryan teaches use of a modular, attached construction of the baffle and woofer frame, and an embodiment with a pivoting woofer speaker. The Examiner has not only failed to show where Ryan teaches or suggests that the woofer frame and baffle should be made integral, thereby avoiding the numerous advantages of this construction, but integral construction would destroy the functionality of Ryan’s pivoting woofer frame. For at least this reason, the Examiner has failed to make out a *prima facie* case of obviousness of Applicant’s claims 2-6, 8-16, and 20-22.

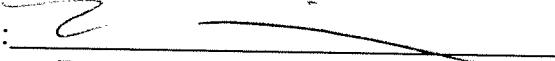
Applicant also submits that the Examiner has failed to show where Ryan teaches or suggests additional features of dependent claims 5, 12, 16, and 18, as discussed in detail on pages 5 and 6 of the March 29th Response.

For at least these reasons, Applicant requests a pre-appeal brief review of the rejections.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

Date: May 22, 2007

By: 

Rose A. Hickman
Registration No. 54,167
Attorney for Applicant(s)

1999 Avenue of the Stars, Suite 1400
Los Angeles, California 90067
Phone: 310-785-4600
Fax: 310-785-4601